

ASSEMBLY BILL

No. 324

Introduced by Assembly Member Diaz

February 7, 2003

An act to amend Sections 1771.5 and 1771.7 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 324, as introduced, Diaz. Public works: labor compliance programs.

Existing law generally requires the payment of the general prevailing rate of per diem wages to workers employed on public works projects costing over \$1,000, unless the awarding body, as defined, elects to initiate and enforce a labor compliance program, as defined, for every public works project under the authority of that awarding body. Existing state regulations provide a process by which the Director of Industrial Relations approves a labor compliance program.

This bill would specify that, for purposes of the statutory provisions, a labor compliance program means a labor compliance program that is approved by the director as specified in state regulations.

Existing law requires an awarding body that chooses to use funds from the Kindergarten-University Public Education Facilities Bond Act of 2002 for a public works project to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program for that public works project. Existing law requires the State Allocation Board to increase, as soon as feasible but no later than July 1, 2003, the per-pupil grant amounts described in 2 specified statutes to accommodate the state's share of any increased costs in projects due to these labor compliance program provisions.

This bill would instead require the board to increase the grant amounts described generally in the Leroy F. Greene School Facilities Act of 1998 and remove the requirement that any increased grant amounts be made on a per-pupil basis. This bill would also repeal the requirement that these increased grant amounts occur no later than July 1, 2003.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1771.5 of the Labor Code is amended
2 to read:

3 1771.5. (a) Notwithstanding Section 1771, an awarding
4 body ~~shall~~ may not require the payment of the general prevailing
5 rate of per diem wages or the general prevailing rate of per diem
6 wages for holiday and overtime work for any public works project
7 of twenty-five thousand dollars (\$25,000) or less when the project
8 is for construction work, or for any public works project of fifteen
9 thousand dollars (\$15,000) or less when the project is for
10 alteration, demolition, repair, or maintenance work, if the
11 awarding body elects to initiate and enforce a labor compliance
12 program pursuant to subdivision (b) for every public works project
13 under the authority of the awarding body.

14 (b) For the purposes of this section, a labor compliance
15 program shall include, but not be limited to, the following
16 requirements:

17 (1) All bid invitations and public works contracts shall contain
18 appropriate language concerning the requirements of this chapter.

19 (2) A prejob conference shall be conducted with the contractor
20 and subcontractors to discuss federal and state labor law
21 requirements applicable to the contract.

22 (3) Project contractors and subcontractors shall maintain and
23 furnish, at a designated time, a certified copy of each weekly
24 payroll containing a statement of compliance signed under penalty
25 of perjury.

26 (4) The awarding body shall review, and, if appropriate, audit
27 payroll records to verify compliance with this chapter.

28 (5) The awarding body shall withhold contract payments when
29 payroll records are delinquent or inadequate.



(6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

(c) *For purposes of this chapter, “labor compliance program” means a labor compliance program that is approved, as specified in state regulations, by the Director of the Department of Industrial Relations.*

SEC. 2. Section 1771.7 of the Labor Code is amended to read:

1771.7. (a) An awarding body that chooses to use funds derived from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project, shall initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program, as described in subdivision (b) of Section 1771.5, with respect to that public works project.

(b) This section ~~shall apply~~ *applies* to public works that commence on or after April 1, 2003. For purposes of this subdivision, work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, does not constitute the commencement of a public work.

(c) (1) For purposes of this section, if any campus of the California State University chooses to use the funds described in subdivision (a), then the “awarding body” is the Chancellor of the California State University. For purposes of this subdivision, if the chancellor is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, the labor compliance program described in that subdivision, then in addition to the requirements imposed upon an awarding body by subdivision (b) of Section 1771.5, the Chancellor of the California State University shall review the payroll records described in paragraphs (3) and (4) of subdivision (b) of Section 1771.5 on at least a monthly basis to ensure the awarding body’s compliance with the labor compliance program.

(2) For purposes of this subdivision, if an awarding body described in subdivision (a) is the University of California or any campus of that university, and that awarding body is required by subdivision (a) to initiate and enforce, or to contract with a third

1 party to initiate and enforce, the labor compliance program
2 described in that subdivision, then in addition to the requirements
3 imposed upon an awarding body by subdivision (b) of Section
4 1771.5, the payroll records described in paragraphs (3) and (4) of
5 subdivision (b) of Section 1771.5 shall be reviewed on at least a
6 monthly basis to ensure the awarding body's compliance with the
7 labor compliance program.

8 (d) (1) An awarding body described in subdivision (a) shall
9 make a written finding that the awarding body has initiated and
10 enforced, or has contracted with a third party to initiate and
11 enforce, the labor compliance program described in subdivision
12 (a).

13 (2) (A) If an awarding body described in subdivision (a) is a
14 school district, the governing body of that district shall transmit to
15 the State Allocation Board, in the manner determined by that
16 board, a copy of the finding described in paragraph (1).

17 (B) The State Allocation Board may not release the funds
18 described in subdivision (a) to an awarding body that is a school
19 district until the State Allocation Board has received the written
20 finding described in paragraph (1).

21 (C) If the State Allocation Board conducts a postaward audit
22 procedure with respect to an award of the funds described in
23 subdivision (a) to an awarding body that is a school district, the
24 State Allocation Board shall verify, in the manner determined by
25 that board, that the school district has complied with the
26 requirements of this subdivision.

27 (3) If an awarding body described in subdivision (a) is a
28 community college district, the Chancellor of the California State
29 University, or the office of the President of the University of
30 California or any campus of the University of California, that
31 awarding body shall transmit, in the manner determined by the
32 Director of the Department of Industrial Relations, a copy of the
33 finding described in paragraph (1) to the director of that
34 department, or the director of any successor agency that is
35 responsible for the oversight of employee wage and employee
36 work hours laws.

37 (e) Notwithstanding Section 17070.63 of the Education Code,
38 for purposes of this act, the State Allocation Board shall increase
39 ~~as soon as feasible, but no later than July 1, 2003, the per pupil~~
40 ~~grant amounts as described in Sections 17072.10 and 17074.10~~

1 *Chapter 12.5 (commencing with Section 17070.10) of Part 10 of*
2 *Division 1 of Title 1* of the Education Code to accommodate the
3 state's share of the increased costs of a new construction or
4 modernization project due to the initiation and enforcement of the
5 labor compliance program.

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